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7 Attorneys for Plaintiff
Activision Publishing, Inc.
8

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11

12 ACTIVISION PUBLISHING, INC., a
13 Delaware Corporation,
14 Plaintiff,
15 v.
16 ACTIVISION TV, INC., a Delaware
Corporation; AD MEDIA DISPLAYS,
17 INC., a Wyoming Corporation; DAVID
GOTHARD, an individual,
18 Defendants.

CASE NO. CV12-8964-GW (JEMx)

Honorable George H. Wu

**DECLARATION OF TERRY KIEL
IN SUPPORT OF PLAINTIFF
ACTIVISION PUBLISHING,
INC.'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Date: July 1, 2013
Time: 8:30 a.m.
Ctrm.: 10

1 I, Terry Kiel, the undersigned, declare:

2 1. I currently hold the position of Senior Trademark Administrator for
3 Activision Blizzard, Inc. ("AB"). On February 1, 2007 I commenced employment
4 with Vivendi Games, Inc. ("Vivendi") as Trademark Administrator. In July 2008,
5 after Vivendi merged with Activision Publishing, Inc. ("Activision") to form AB,
6 my role was expanded to include Activision's portfolio of trademarks. Among
7 other duties, I am responsible for overseeing Activision's portfolio of trademarks,
8 to include filing of trademark applications, monitoring the progress of pending
9 applications, coordinating with counsel around the world with respect to the
10 registration, maintenance, and enforcement of trademarks; and, monitoring
11 published trademarks. I make the following declaration on my own personal
12 knowledge and based on my review of records maintained by Activision in the
13 ordinary course of business. If called upon to do so, I could and would testify
14 truthfully to the matters set forth herein.

15

16 2. Activision possesses five U.S. registrations in the U.S. Patent and
17 Trademark Office ("PTO") in connection with its ACTIVISION name and logo, as
18 follows:

19

20 (a) Registration Number 1,183,958 for "video game cartridges"

21 (b) Registration Number 1,207,377 for "video game cartridges"

22 (c) Registration Number 1,350,487 for "prerecorded computer programs
23 and instruction manuals sold as a unit"

24 (d) Registration Number 2,903,474 for "multimedia entertainment
25 software production services; Publishing interactive computer and video game
26 software" and

27 (e) Registration Number 3,398,311 for "computer game software;
28 downloadable software for use in connection with computer games; downloadable

1 computer game software and entertainment software, namely, ring tones, graphics
2 and digital audio files for use with mobile and cellular phones and other wireless
3 devices; electronic publications, namely, computer game strategy guides” as well
4 as “printed computer game strategy guides” and “clothing, namely, shirts, hats and
5 jackets”.

6
7 3. True and correct copies of the foregoing registrations are attached
8 hereto as Exhibits 1 through 5. All of these registrations except for 3,398,311 have
9 been deemed incontestable pursuant to 15 U.S.C. § 1065.

10
11 4. In or about October 2009 I became aware that a company calling itself
12 “Activision TV” was in the process of registering the mark ACTIVISION.TV for a
13 variety of computer-related goods and services. Following Activision’s discovery
14 of ACTIVISION.TV pending trademark applications, Activision commissioned a
15 brief investigation which confirmed that Activision TV was purporting to offer,
16 including via its website www.activision.tv, an on-demand interactive
17 entertainment service that included video games. Throughout the first half of
18 2010, Activision continued to monitor the progress of Activision TV’s trademark
19 applications. On March 30, 2010 the first ACTIVISION.TV trademark application
20 was published for opposition, and after successfully filing two (2) extensions of
21 time to oppose, Activision filed a notice of opposition.

22 I declare under penalty of perjury under the laws of the State of California
23 that the foregoing is true and correct.

24 Executed this 30th day of May, 2013, at Santa Monica, California.

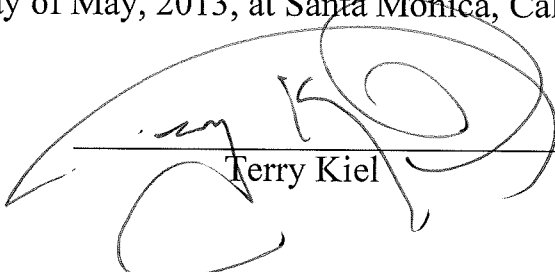
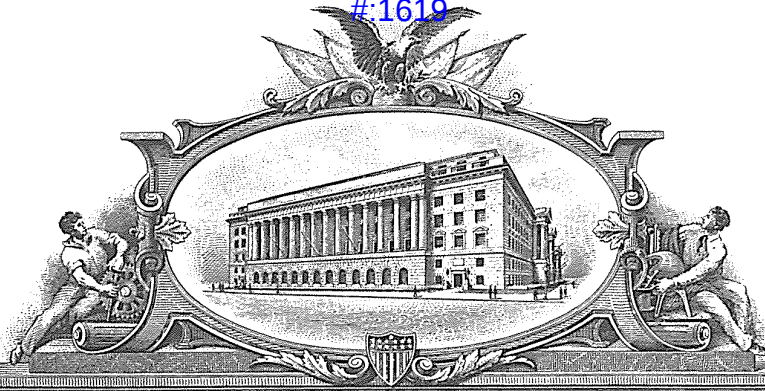
25
26
27
28

Terry Kiel
2

EXHIBIT 1

7419815



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

May 24, 2013

**THE ATTACHED U.S. TRADEMARK REGISTRATION 1,183,958 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.**

**REGISTERED FOR A TERM OF 10 YEARS FROM February 22, 1994
1st RENEWAL FOR A TERM OF 10 YEARS FROM October 22, 2004
SECTION 8 & 15**

**AMENDMENT/CORRECTION/NEW CERT(SEC7) ISSUED
SAID RECORDS SHOW TITLE TO BE IN:**

***GALARDI GROUP, INC.
A CALIFORNIA CORPORATION***

**By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office**




T. WALLACE
Certifying Officer

Int. Cl.: 28

Prior U.S. Cls.: 22 and 36

United States Patent and Trademark Office

Reg. No. 1,183,958

Registered Dec. 29, 1981

TRADEMARK

Principal Register

ACTIVISION

Activision, Inc. (California corporation)
759 E. Evelyn Ave.
Sunnyvale, Calif. 04086

For: VIDEO GAME CARTRIDGES, in CLASS
28 (U.S. Cls. 22 and 36).
First use Jul. 10, 1980; in commerce Jul. 10, 1980.

Ser. No. 277,756, filed Sep. 15, 1980.

R. G. COLE, Primary Examiner

EXHIBIT 2

7419815



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

May 23, 2013

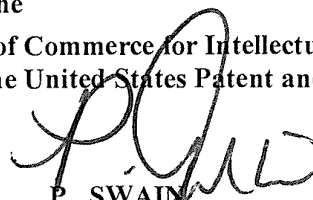
THE ATTACHED U.S. TRADEMARK REGISTRATION 1,207,377 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 20 YEARS FROM *September 07, 1982*
2nd RENEWAL FOR A TERM OF 10 YEARS FROM *September 07, 2012*
SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

ACTIVISION PUBLISHING, INC.
A DELAWARE CORPORATION

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office


P. SWAIN
Certifying Officer



Int. Cl.: 28

Prior U.S. Cls.: 22 and 36

United States Patent and Trademark Office

Reg. No. 1,207,377

Registered Sep. 7, 1982

TRADEMARK
Principal Register

ACTIVISION

Activision, Inc. (California corporation)
759 E. Evelyn Ave.
Sunnyvale, Calif. 94086

For: VIDEO GAME CARTRIDGES, in CLASS
28 (U.S. Cls. 22 and 36).
First use Jul. 10, 1980; in commerce Jul. 10, 1980.

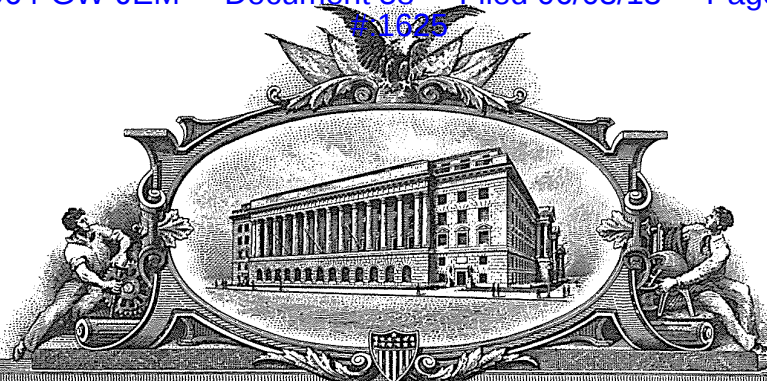
Ser. No. 277,758, filed Sep. 15, 1980.

R. G. COLE, Primary Examiner

WILBUR C. DAVIS, Examiner

EXHIBIT 3

7419815



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

May 24, 2013

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,350,487 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 20 YEARS FROM *July 23, 1985*
1st RENEWAL FOR A TERM OF 10 YEARS FROM *July 23, 2005*
SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

ACTIVISION PUBLISHING, INC.
A DELAWARE CORPORATION

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

M. TARVER
Certifying Officer



Int. Cl.: 9

Prior U.S. Cl.: 38

United States Patent and Trademark Office Reg. No. 1,350,487
Registered July 23, 1985

**TRADEMARK
PRINCIPAL REGISTER**

ACTIVISION

ACTIVISION, INC. (CALIFORNIA CORPORATION)
2350 BAYSHORE FRONTAGE ROAD
MOUNTAIN VIEW, CA 94043

FOR: PRERECORDED COMPUTER PROGRAMS AND INSTRUCTION MANUALS SOLD AS A UNIT, IN CLASS 9 (U.S. CL. 38).

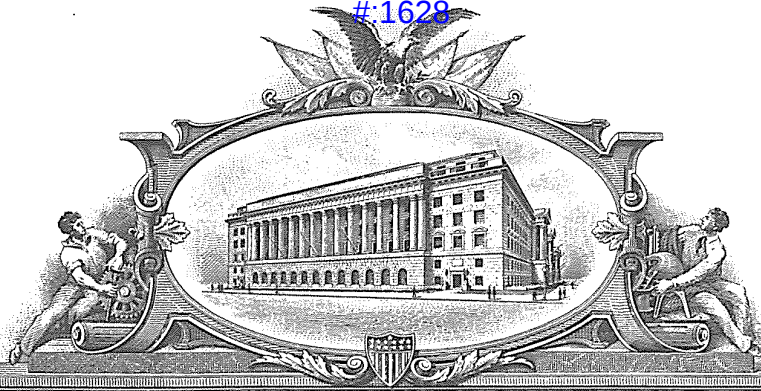
FIRST USE 7-10-1980; IN COMMERCE 7-10-1980.
OWNER OF U.S. REG. NOS. 1,183,958 AND 1,207,377.

SER. NO. 517,928, FILED 1-17-1985.

G. T. GLYNN, EXAMINING ATTORNEY

EXHIBIT 4

7419815



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

May 23, 2013

**THE ATTACHED U.S. TRADEMARK REGISTRATION 2,903,474 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.**

REGISTERED FOR A TERM OF 10 YEARS FROM *November 16, 2004*

SECTION 8 & 15

AMENDMENT/CORRECTION/NEW CERT(SECT) ISSUED

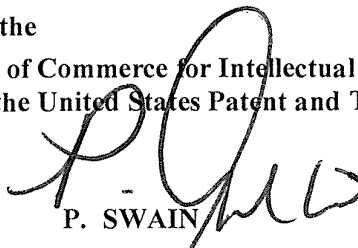
SAID RECORDS SHOW TITLE TO BE IN:

ACTIVISION PUBLISHING, INC.

A DELAWARE CORPORATION

By Authority of the

**Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office**


P. SWAIN
Certifying Officer



Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

Reg. No. 2,903,474

United States Patent and Trademark Office

Registered Nov. 16, 2004

Corrected

OG Date Aug. 31, 2010

SERVICE MARK
PRINCIPAL REGISTER

ACTIVISION

ACTIVISION PUBLISHING, INC. (DELA-
WARE CORPORATION)
3100 OCEAN PARK BLVD.
LEGAL DEPT.

SANTA MONICA, CA 90405

THE MARK CONSISTS OF STAN-
DARD CHARACTERS WITHOUT CLAIM
TO ANY PARTICULAR FONT, STYLE,
SIZE, OR COLOR.

FOR: MULTIMEDIA ENTERTAIN-
MENT SOFTWARE PRODUCTION SER-
VICES; PUBLISHING INTERACTIVE
COMPUTER AND VIDEO GAME SOFT-
WARE, IN CLASS 41 (U.S. CLS. 100, 101
AND 107).

FIRST USE 7-10-1980; IN COMMERCE
7-10-1980.

SER. NO. 78-326,763, FILED 11-12-2003.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Aug. 31, 2010.*

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

Reg. No. 2,903,474

United States Patent and Trademark Office

Registered Nov. 16, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

ACTIVISION

ACTIVISION, INC. (DELAWARE CORPORATION)
LEGAL DEPARTMENT
3100 OCEAN PARK BOULEVARD
SANTA MONICA, CA 90405

FIRST USE 10-3-1977; IN COMMERCE 10-3-1977.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

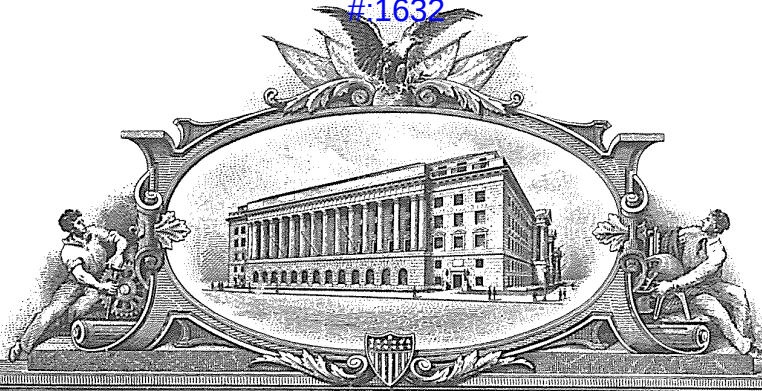
FOR: MULTIMEDIA ENTERTAINMENT SOFTWARE PRODUCTION SERVICES; PUBLISHING INTERACTIVE COMPUTER AND VIDEO GAME SOFTWARE, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

SER. NO. 78-326,763, FILED 11-12-2003.

APRIL L. RADEMACHER, EXAMINING ATTORNEY

EXHIBIT 5

7419815



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

May 23, 2013

THE ATTACHED U.S. TRADEMARK REGISTRATION 3,398,311 IS
CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION ISSUED BY
THE UNITED STATES PATENT AND TRADEMARK OFFICE WHICH
REGISTRATION IS IN FULL FORCE AND EFFECT.

REGISTERED FOR A TERM OF 10 YEARS FROM *March 18, 2008*
SAID RECORDS SHOW TITLE TO BE IN: *Registrant*

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office


P. R. GRANT
Certifying Officer



Int. Cls.: 9, 16 and 25

**Prior U.S. Cls.: 2, 5, 21, 22, 23, 26, 29, 36, 37, 38, 39
and 50**

Reg. No. 3,398,311

United States Patent and Trademark Office

Registered Mar. 18, 2008

**TRADEMARK
PRINCIPAL REGISTER**

ACTIVISION

ACTIVISION PUBLISHING, INC. (DELAWARE
CORPORATION)
3100 OCEAN PARK BOULEVARD
SANTA MONICA, CA 90405

FOR: COMPUTER GAME SOFTWARE; DOWN-
LOADABLE SOFTWARE FOR USE IN CONNEC-
TION WITH COMPUTER GAMES;
DOWNLOADABLE COMPUTER GAME SOFT-
WARE AND ENTERTAINMENT SOFTWARE,
NAMESLY, RING TONES, GRAPHICS AND DIGI-
TAL AUDIO FILES FOR USE WITH MOBILE AND
CELLULAR PHONES AND OTHER WIRELESS DE-
VICES; ELECTRONIC PUBLICATIONS, NAMESLY,
COMPUTER GAME STRATEGY GUIDES, IN CLASS
9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 0-0-1980; IN COMMERCE 0-0-1980.

FOR: PRINTED COMPUTER GAME STRATEGY
GUIDES, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38
AND 50).

FIRST USE 0-0-1994; IN COMMERCE 0-0-1994.

FOR: CLOTHING, NAMESLY, SHIRTS, HATS AND
JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 0-0-1995; IN COMMERCE 0-0-1995.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,183,958, 1,207,377,
AND 1,350,487.

SER. NO. 77-254,263, FILED 8-13-2007.

BENJAMIN ALLEN, EXAMINING ATTORNEY